

UNITED STATES COURT OF APPEALS

Filed 1/9/96

TENTH CIRCUIT

DANNY DAVIS,

Petitioner - Appellant,

v.

UNITED STATES OF AMERICA;  
ELIZABETH COLLINS, Assistant U.S.  
Attorney; and JANET RENO, United  
States Attorney General,

Respondents - Appellees.

No. 95-3320

(D.C. No. 95-CV-3385)

(D. Kansas)

**ORDER AND JUDGMENT\***

Before **ANDERSON, BARRETT, and LOGAN**, Circuit Judges.

After examining the briefs and appellate record, this panel has determined unanimously that oral argument would not materially assist the determination of this appeal. See Fed. R. App. P. 34(a); 10th Cir. R. 34.1.9. This cause is therefore ordered submitted without oral argument.

This matter is before the court on appellant's motion for leave to proceed on appeal without prepayment of costs or fees. In order to succeed on his motion, an

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\*This order and judgment is not binding precedent, except under the doctrines of law of the case, res judicata, and collateral estoppel. The court generally disfavors the citation of orders and judgments; nevertheless, an order and judgment may be cited under the terms and conditions of the 10th Cir. R. 36.3.

appellant must show both a financial inability to pay the required filing fees and the existence of a reasoned, nonfrivolous argument on the law and facts in support of the issues raised on appeal. See 28 U.S.C. § 1915(a); Coppedge v. United States, 369 U.S. 438 (1962); Ragan v. Cox, 305 F.2d 58 (10th Cir. 1962).

As the district court pointed out in its order, the appellant's conviction was affirmed on direct appeal by the Sixth Circuit Court of Appeals, and his subsequent motion for relief under 28 U.S.C. § 2255 was denied. For the reasons stated in the district court's order dated September 29, 1995, the appellant makes no reasoned argument which would permit him to relitigate issues already raised. Accordingly, the motion for leave to proceed on appeal without prepayment of costs or fees is denied. The appeal is DISMISSED.

The mandate shall issue forthwith.

ENTERED FOR THE COURT

Stephen H. Anderson  
Circuit Judge